

CALIFORNIA COASTAL COMMISSION

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REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-02-161

Applicant: 22nd District Agricultural Association Agent: BRG Consulting, Inc.

Description: Expansion of the existing grandstand/clubhouse structure over a 17,204 sq.ft. portion of the existing paved area between the grandstand and racetrack, to provide additional, permanent box seats and dining tables to accommodate approximately 1,284 patrons in an area periodically occupied by seasonal bleachers and/or temporary seating/dinning facilities.

Lot Area	336 acres
Parking Spaces	14,000 (maximum, depending on event)
Zoning	Fairgrounds/Racetrack
Plan Designation	Fairgrounds/Racetrack

Site: Del Mar Fairgrounds, 2260 Jimmy Durante Boulevard, Del Mar, San Diego County. APN 298-271-03

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff is recommending denial of the proposed grandstand additions. The increased attendance generated by the construction of approximately 1,284 seats (a combination of box seating for 4 or 6 persons and dining tables) could result in added pressure to increase use of the south and east overflow parking lots. The increased parking demand associated with the proposed development, along with the cumulative effect of intensification of use of the fairgrounds overall, increases the potential for unauthorized use of the existing, unimproved overflow parking lots which are adjacent to environmentally sensitive habitat area and contain significant wetland resources. A lesser concern is the potential loss of lower-cost visitor-serving recreational amenities. There is insufficient information submitted with this permit application to assess the impacts associated with the current use of the fairgrounds, grandstand and the proposed grandstand expansion, to traffic, parking, public access and sensitive resources. In addition, as a result of review of this permit application, staff has

become aware of unauthorized expansion of the grandstand since its approval in CDP #6-90-266. The Commission's enforcement division will evaluate further actions to address the unauthorized expansion.

Substantive File Documents: 1985 Master Plan Update, draft 2000 Master Plan Update, and draft 1990 Public Works Plan; CCC Files: #6-90-266; #6-99-031; #6-99-094; #6-02-020

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-02-161 for the development proposed by the applicant.*

STAFF RECOMMENDATION OF DENIAL:

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY THE PERMIT:

The Commission hereby denies a coastal development permit for the proposed development on the grounds that the development will not conform with the policies of Chapter 3 of the Coastal Act. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

II. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The applicant is proposing to make permanent additions to its existing grandstand facilities, constructed pursuant to Coastal Development Permit (CDP) #6-90-266, that will accommodate approximately 1,284 patrons. The improvements include constructing new box seats and providing additional dining tables on stepped terraces for enhanced viewing of, and sit-down dining service during, racetrack and other events. The improvements would cover approximately 17,204 sq.ft. of the existing paved apron between the grandstand building and the

racetrack in an area periodically occupied by seasonal bleachers and/or temporary seating/dining facilities and where spectators currently stand or bring lawn chairs to view the events.

The project has been described by the applicant as primarily replacing temporary facilities with permanent ones. The applicant maintains that pull-out bleachers were part of the original permit for the grandstand. The original approved plans for the grandstand construction showed pull-out bleachers; however, the bleachers were not mentioned in the application or staff report for CDP #6-90-266, nor specifically identified in narrative form on the approved plans, although all other such features were specifically identified. Although the bleachers remain in the basement of the grandstand structure, the applicant has indicated that their mechanism failed after a few seasons and has since replaced the pullout bleachers with formal grandstand additions in front of the clubhouse area and with informal/temporary seating and dining facilities in front of the grandstand section west of horse walk. These replacement facilities have not been authorized by the Commission.

Based on pictures submitted by the applicant, it would appear that the unauthorized permanent additions in front of the clubhouse can accommodate well over 500 patrons (however, the actual amount has not been provided by the applicant or documented on plans). Since the temporary seating and dining facilities north of the grandstand section are currently removed for the winter season, there is no way to tell with certainty how many people are accommodated in that area on a seasonal basis. However, the current proposal will replace all the temporary seating with permanent facilities. The submitted plans indicate a total of 1,284 patrons can be accommodated in the new areas proposed with this application.

The current application requests approval for only the proposed future grandstand expansion, not previously unauthorized expansions of the grandstand. The Commission's enforcement division will evaluate further actions to address the previous expansions. Because the proposed expansion of the grandstand increases the seating capacity, and therefore the intensity of use, of the grandstand, the proposed development requires a CDP pursuant to the Commission's regulations regarding additions to existing structures. *See* 14 C.C.R. § 13253(b)(7).

The project site is geographically within the City of Del Mar, which has a certified LCP and issues its own coastal development permits. However, the Fairgrounds was principally built on filled tidelands. Thus, the site is within the Coastal Commission's area of original jurisdiction, with Chapter 3 of the Coastal Act being the standard of review for permits. The Fairgrounds planning documents, which include a 1985 Master Plan Update, draft 1990 Public Works Plan and draft 2000 Master Plan Update, and the Del Mar LCP are used for guidance.

2. Environmentally Sensitive Lands/Parking. The following Chapter 3 policies of the Coastal Act are most applicable to this development, and state, in part:

Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30233

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

Section 30240

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Section 30252

The location and amount of new development should maintain and enhance public access to the coast by ... (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, ...

Virtually the entire Fairgrounds property was created by filling tidelands back in the 1930's. Although most of the site is now developed, including the subject grandstand structure, there are several areas still containing seasonal wetland resources, including the East and South Overflow Parking Lots and much of the driving range. In addition, all of these areas are within the 100-year floodplain of the adjacent San Dieguito River and experience periodic inundation during average winter rainy seasons. There are no sensitive habitats or wetland resources on the specific project site, but intensification of use of the facilities can directly affect use of the overflow parking lots which can result in adverse impacts to the wetland resources on the parking lots and to the adjacent environmentally sensitive habitat within the San Dieguito River and its environs. Adjacent resources include both wetlands and uplands and are actively used by several sensitive species, including the Belding's savannah sparrow.

At the time the Commission reviewed CDP #6-90-266, the issue of use of the unimproved overflow parking lots was not considered as critically as it has been in more recent permit reviews. Wetland delineations of both parking lots were conducted in 1993, by a representative of the U.S. Army Corps of Engineers (ACOE); this resulted in the designation of the entire south overflow lot (SOL) as wetland and approximately a third of the east overflow lot (EOL) as well. The applicant contested this delineation and has since conducted its own wetland delineation of both areas.

On March 19, 21 and 23, 1996, the applicant conducted a survey (East Parking Lot Wetlands Delineation Report, dated May 10, 1996) and concluded that 1.7 acres of the 18-acre EOL (or just less than one tenth) is palustrine wetlands. In January, 1999, the

applicant surveyed the SOL (South Parking Lot Wetlands Delineation, dated January, 1999) and concluded that a small area is wetlands, but the survey did not include any narrative quantifying the survey results. It appears the wetland in the south overflow lot, as mapped by the applicant, is less than an acre in size, and could be as small as a quarter of an acre. The applicant states it used the federal protocol to conduct the surveys; in most cases, that protocol requires that all three wetland indicators (hydric soils, appropriate hydrology and wetland vegetation) must be present before a site is delineated as a wetland. There are exceptions for cases of known historic wetlands that have been artificially altered, where the presence of wetland vegetation is not required to identify a piece of land as a wetland. The discrepancy between the delineation done by the ACOE and that conducted by the applicant has not been explained. Additionally, the applicant's delineations have never been certified by the ACOE or any other resource agency.

However, both the Coastal Commission and the California Department of Fish and Game (CDFG) define wetland as lands that contain any one of the three indicators. The Coastal Act definition of "wetland" states:

"Wetland" means lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.

The Commission's regulations define "wetlands" as:

Land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. 14 C.C.R. § 13577.

The EOL was acquired by the applicant for parking purposes in 1967 to supplement the main parking lot during the annual fair and horseracing meet (i.e., from mid-June through mid-September each year). It is currently unimproved except for a paved tramway which partially circles the lot. The tramway was constructed several years ago pursuant to Coastal Development Permit #6-94-13, and was specifically designed to avoid patches of delineated wetlands identified by the Army Corps of Engineers (ACOE) in 1993. The applicant asserts that the parking lot is used by Fairgrounds patrons and employees throughout the year; however, the Commission has only acknowledged its pre-Coastal Act use during the Fair and racing season, and authorized its short-term use (about ten days) by permit for the Grand Prix, which was held at the Fairgrounds each fall for five consecutive years between 1987 and 1991.

The applicant's SOL survey identified at least one wetland indicator present at every surveyed transect point. Therefore, both the ACOE delineation and the applicant's data indicate that the entire south overflow lot is wetlands according to the protocol used in California (i.e., the Commission and CDFG definition of wetland). The field data sheets

for the applicant's EOL survey include a number of transect points where one or two indicators were present outside of the area that the applicant delineated as wetland. This suggests that wetlands meeting the Coastal Act definition continue to exist outside the area delineated by the applicant. A current delineation is anticipated as part of the applicant's 2000 update of their Master Plan, but this information is not yet available. In the absence of a formal delineation according to California protocol, and in view of the facts presented above, the Commission finds it appropriate to take a conservative approach in evaluating the consistency of the proposed project with Chapter 3 policies of the Coastal Act.

Historically, both parking lots have been used by the applicant as a patron parking reservoir during the annual fair and thoroughbred race meet. Because use of the lots for parking for these two main yearly events predated the Coastal Act, the Commission has not challenged the continued use of this area for overflow parking during these events, even though all, or portions, of both lots are wetlands. To prepare the lot surfaces for parking each year, the applicant discs and levels both lots prior to the Mid-June start of the fair (the race meet follows almost immediately after the Fair closes). The preparation activities, and the parking itself, severely inhibit the ability of these areas to support growth of wetland vegetation and thus function successfully as wildlife habitat during that period.

Over time, the use of the Fairgrounds has expanded significantly, and the site now hosts multiple interim events every weekend all year long. The applicant asserts that the overflow lots are also used by patrons during many of these smaller events, especially when several occur simultaneously. The Fairgrounds consultant has submitted documentation demonstrating that the EOL alone was used by patrons on seventeen non-Fair or racing days in 1998/1999. Although more recent information has not been submitted, the number of interim events continues to increase in size and frequency. The submitted data mostly represent weekend days, when there are typically several concurrent events taking place at the Fairgrounds, and the main, paved parking lot is full. In fact, the overflow lots themselves have been used to stage events, such as a pumpkin patch and Christmas tree lot on the EOL and storage and a truck driving school on the SOL. The applicant has indicated that the EOL is also used by Fairgrounds employees, who are directed to park in this location to preserve areas of the main, paved parking lot for use by patrons, although there has been no formal authorization of this use by the Coastal Commission.

As stated, the Commission has acknowledged the cited historic use of the overflow lots for parking during the fair and race meet. In addition, in past permit actions, the Commission authorized use of this area for parking during the five years the Grand Prix was held at the Fairgrounds, and allowed the installation of an at-grade paved tram track outside ACOE delineated wetlands. The tram is used during the annual fair and thoroughbred racing season to transport Fairgrounds patrons to the entrance ticketing windows. With these two exceptions, the Commission has not reviewed or approved parking by patrons or employees or any other uses of these lots. The Commission only acknowledges use of the overflow lots during the Fair and race meet at the level of use,

both spatially and in number of days, utilized prior to February 1973, when the permitting requirements of the Coastal Zone Conservation Act of 1972 (Proposition 20), the predecessor statute to the Coastal Act, took effect. Any increases in use of the overflow lots since 1972, even during the fair and races, is currently unauthorized by the Commission.

The Commission is reluctant to authorize any development which could potentially require use of the overflow beyond the pre-Coastal Act usage, for all of the resource reasons discussed above. The EOL and SOL not only contain delineated wetlands but they currently serve as a buffer between the existing more intense uses within the fairgrounds and adjacent commercial development, and the sensitive habitat within the San Dieguito River Valley. Until an adequate, current wetlands delineation is done, there is no way to determine the extent of resources on the overflow parking lot sites, and any development that would result in formalizing or intensifying use of the lots would be inconsistent with the Coastal Act's resource protection policies. The proposed grandstand additions would result in additional vehicles to the fairgrounds, and not only during the fair and races. These facilities could be made available for other events, in particular concerts, throughout the year; although according to the applicant, at this time concerts are only staged in the grandstand facilities during the fair. A larger venue could attract larger audiences, making continued, and/or additional, unauthorized use of the overflow lots more likely.

Section 30231 requires the biological productivity and quality of wetlands to be maintained and, where feasible, enhanced. Section 30233 limits fill and dredging of wetlands to eight identified purposes. Use of the overflow areas for parking degrades the wetlands that exist on the sites and is not one of the identified purposes in Section 30233(a). More frequent use of the lots and/or expansion of parking into areas not historically used for parking could adversely affect the adjacent environmentally sensitive habitat within the San Dieguito River and its environs which is inconsistent with Section 30240. Because the proposed development is likely to increase use of these areas for parking, it is inconsistent with the resource protection policies of the Coastal Act.

In summary, the Commission has identified significant biological resource concerns with the proposed project. These are multiplied by the unauthorized additions already in place which have undoubtedly increased use of the SOL and EOL. Moreover, the applicant's own assessment in parking and traffic monitoring studies associated with the original grandstand permit (6-90-266) predict that attendance at the two main events will increase by approximately 20,000 people between 1995 and 2010, based on population increases alone. It would be inappropriate to authorize any further development that increases parking demand until the applicant provides adequate documentation of the natural resources present on the overflow lots and within the adjacent area that could be adversely affected by parking demand associated with the proposed development. Therefore, the Commission finds that the proposed development is not consistent with the cited Chapter 3 policies of the Coastal Act, and must be denied.

3. Hydrology – Floodway and Floodplain Issues. The following policies of the Coastal Act apply to the proposed development, and state, in part:

Section 30236

Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

Section 30253

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard...

The majority of the Fairgrounds property is identified as being within the 100-year floodplain of the San Dieguito River. Historically, this area has been subject to inundation during some past winters, even though the applicant maintains earthen berms just north of the river channel along the south side of the SOL and EOL. Jimmy Durante Boulevard, which was realigned and raised in elevation during the 1980's pursuant to Coastal Development Permit #6-83-589, acts as a dike, protecting the more developed portions of the Fairgrounds (main parking lot and existing buildings) from flooding except during the most severe flood events. The site of the proposed grandstand additions is located within the main developed area, but the SOL and EOL, that could be adversely affected by any increases in intensity of use on the Fairgrounds property, are located between Jimmy Durante Boulevard and the river, and are thus not afforded any protection by the road.

In past permit actions, the Commission has denied fill and construction of permanent structures in the floodplain pursuant to Section 30236 of the Coastal Act. The reason for prohibiting fill or structural improvements in this area is because such development would adversely affect the hydrology of the floodplain and would change the flow and drainage patterns of the affected area; thus, any form of filling the floodplain is a form of channelization. Under Section 30236, cited above, channelization is only allowed as part of a water supply project, as the only feasible means to protect existing structures or as part of a fish or wildlife habitat enhancement project. The area identified for the proposed grandstand additions, however, is an already-paved section between the existing grandstand and the racetrack, such that flow velocities would not be affected.

The Fairgrounds was constructed back in the 1930's on fill placed in historic tidelands. Although this is not the type of development that could be found consistent with the

Coastal Act today, the fill operation occurred many decades before the Coastal Act was passed. Because of the history and unique nature of the existing Fairgrounds property, the Commission has in the past approved many permits for development on the filled tidelands. In general, these past permits have authorized improvements within the partially paved, already developed portion of the Fairgrounds north and west of Jimmy Durante Boulevard. For the most part, these past projects have consisted of the replacement of many of the historic buildings, including the racetrack grandstands, the horse arena and most of the stables. Although the replacement structures have sometimes been larger than the originals, they have been similarly sited and typically intended for the same historic uses.

In summary, the Commission finds that the proposed development would not significantly adversely affect site hydrology, since it would occur within an already-paved area. Although many portions of the Fairgrounds flood under average winter storm conditions, the actual grandstand facilities have not been significantly affected in the past. The Commission finds the proposed development does not represent channelization of the river within the meaning of Coastal Act Section 30236 or development in a hazardous area as addressed by Section 30253 of the Act.

4. Water Quality. The following policy of the Coastal Act addresses this issue and states:

Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The main improved Fairgrounds property drains towards the San Dieguito River, but passes through filtration devices before being discharged. Moreover, the grandstand improvements will occur on already-paved areas, and thus not increase the amount of impermeable surfaces. The unimproved overflow lots, however, would be susceptible to increased polluted runoff if the proposed grandstand improvements result in additional parking in the SOL and EOL. Since both these sites have berms between the resources and the river, most runoff tends to pond on the surface and percolate into the ground, with only a small amount of runoff actually leaving the site. However, whatever runoff does escape the SOL and EOL winds up in the San Dieguito River. Parking already occurs directly within delineated wetlands during the breeding seasons of sensitive species; allowing an increase in the intensity of use of the grandstand, and thus the overflow lots, would result in degradation of any wetland resources that manage to germinate therein.

Therefore, the Commission finds the development inconsistent with Section 30231 of the Coastal Act, and denies the permit application.

5. Visual Resources. The following policy of the Coastal Act provides for the protection of scenic coastal resources, and states, in part:

Section 30251

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

This general area comprises the San Dieguito River Valley and Lagoon. As such, views throughout this area are considered significant, and the retention and enhancement of existing viewpoints and view corridors is required. The project site, however, is located between the existing grandstand facility and the racetrack, and no proposed improvements would extend higher than the existing structures. The proposed improvements would not be prominent from any viewpoint outside the property, including the major coastal access routes of I-5, Via de la Valle, and Camino Santa Fe as well as from the Amtrak lines, which cross the river mouth just west of the Fairgrounds. Therefore, the Coastal Commission finds the proposed development is consistent with Section 30251 of the Act. However, the potential use of the SOL or EOL for anything other than parking during the Fair and race meet, has not been analyzed for possible conflicts with Section 30251 of the Act.

6. Public Access and Recreation/Traffic. The Coastal Act emphasizes the need to protect public recreational opportunities and to provide public access to and along the coast. The following Coastal Act policies, which address the protection of public access and recreational opportunities, are most applicable to the proposed development:

Section 30210

In carrying out the requirements of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30212

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby....

Section 30213

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30604(c)

(c) Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).

The project site, and indeed the entire Fairgrounds, is located between the first coastal road and the sea (San Dieguito River and Lagoon). The Fairgrounds is relatively near the public beaches of Del Mar and is itself a popular visitor destination, since all of its facilities and events are open to the public. The proposed grandstand improvements could increase the intensity of use of the site throughout the year, as this additional seating would be permanent and thus available for other events, as well as the fair and races. Whether this could result in significant increases in traffic on surrounding, already overcrowded surface streets (and on I-5, which generally experiences traffic congestion most of the time and specific delays during summer weekends associated with the fair and horseracing events) has not been analyzed at this time. Nor has the expected increase in vehicles been quantified, or the adequacy of parking spaces outside the SOL and EOL been analyzed. Additionally, the cumulative impact of additional seating on the overall intensification of use of the fairgrounds has not been addressed.

Another access concern is that the project will result in the elimination, or reduce the enjoyment of, lower-cost visitor recreational amenities. The location for the proposed addition is an open paved apron where many patrons now stand or sit in lawn chairs. The applicant maintains that the proposed additions will not significantly increase use of the grandstand, but will only provide seating for people now standing. There is, however, a significant monetary difference between carrying in your lawn chair, or just standing up, for the price of a \$5.00 admission ticket, and reserving box seats or dining tables. Based on conversations with the applicant's representative, box seats are reserved for an entire season at an approximate price of \$1,400; dining tables are reserved on a first come, first serve daily basis, but cost approximately \$40.00. These facilities obviously cater to the more affluent patrons.

The Commission would not necessarily deny the proposal based on Section 30213 alone, as there would still appear to be adequate area for the average number of general

admission patrons (1,000-5,000 per day) to continue to view the races for just the price of admission. However, the amount and location of trackside and infield area available for this current lower-cost use has not been adequately documented.

In summary, the Coastal Commission does not have adequate information to evaluate the traffic impacts of the proposed development. However, because the applicant saw the project as having negligible impact on these resources, which could be partly a result of some existing facilities being unauthorized, it did not conduct extensive traffic or parking studies. Such studies should be part of any future permit applications for similar improvements.

7. Unpermitted Development. The proposed development will occur on a site where several developments have apparently occurred without the benefit of a coastal development permit. These include the installation of temporary box seats and dining terraces as well as permanent additions to the clubhouse portion of the grandstand facility accommodating a significant amount of additional patrons beyond what the Commission approved pursuant to CDP #6-90-266. The Commission finds that the subject application is denied for reasons explained in prior findings. The apparently unpermitted seasonal amenities and permanent additions to the clubhouse portion of the grandstand facilities which have already occurred on site are not proposed as part of this application. The Commission's enforcement division will evaluate further actions to address this matter.

Although construction has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. An action by the Commission on this permit application does not constitute a waiver of any legal action with regard to any alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

8. Potential Project Alternatives. The Commission cannot find the proposed development consistent with several Coastal Act policies addressing biological resources, with the primary concern being increased use of the SOL and EOL. However, there are at least two alternatives available to the applicant. Alternative parking arrangements could be proposed to assure that use of the grandstand additions do not increase use of these unimproved overflow lots containing wetlands. Such alternatives could include, but not be limited to, off-site/satellite parking lots and shuttle system, and implementation of a transportation demand management program designed to reduce on-site parking demand. The applicant can also continue using the developed grandstand facilities as approved in CDP #6-90-266 (i.e., no project alternative). The no-project alternative will not, of course, resolve the issue of unpermitted development at the grandstand facilities. However, the applicant can propose retention of these facilities in a separate coastal development permit application, fully understanding that these improvements raise all the same issues as those proposed herein.

9. Local Coastal Planning. Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted

development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding cannot be made.

Portions of the project are located within both the Cities of Del Mar and San Diego, which both have fully certified LCPs. The grandstand and SOL are located geographically in Del Mar, and the EOL is located in the Torrey Pines community of San Diego. However, the Fairgrounds is primarily an area of filled tidelands and is thus within the Coastal Commission's area of original jurisdiction. Moreover, the Fairgrounds represent an area of deferred certification in Del Mar's certified LCP. The Commission has coastal development permit authority and the standard of review is Chapter 3 of the Coastal Act. The preceding findings have identified the project is not consistent with several applicable Chapter 3 policies. Moreover, the project is inconsistent with both certified LCPs, as they contain policies and ordinances protective of wetland resources. Therefore, the Commission finds that project approval would prejudice the ability of the Cities of Del Mar and San Diego to successfully implement their certified LCPs in this area.

10. Consistency with the California Environmental Quality Act (CEQA). As previously stated, the proposed development will result in impacts to biological resources and water quality, and potentially to public access as well, which will result in unmitigable environmental impacts. Furthermore, several alternatives exist which would lessen the environmental impact of the proposed project on coastal resources; these are discussed in Finding 8. The Commission therefore finds that there are feasible alternatives or mitigation measures available which would substantially lessen the significant adverse impacts which the proposed development may have on the environment of the coastal zone.